Decision for dispute CAC-UDRP-106236

Case number	CAC-UDRP-106236
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Domain names	taxig7-iledefrance.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	G7

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Taxi G7

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has established by submitted evidence, that the Complainant is the registered owner of a large portfolio of registered trademarks including the French (INPI) trademark for G7, no. 4259547, registered on July 15, 2016 together with other European Union (EUIPO) trademarks for G7 and TAXIS G7 (collectively “the G7 trademark”).

FACTUAL BACKGROUND

The Complainant is a French company that is Europe's leading taxi operator. It provides its services under the aforesaid G7 trademark.
The Complainant also owns several domain names including <taxis-g7.com> which it registered on January 17, 1997 and which it uses in its business.

The Respondent registered the disputed domain name <taxig7-iledefrance.com> on February 2, 2024. The disputed domain name resolves to a website under construction which includes the G7 trademark and purports to offer taxi services that will compete with those of the Complainant.

The Complainant is concerned that in creating the disputed domain name the Respondent has embodied the entirety of the G7

trademark in the disputed domain name and that the Respondent will continue to use it to resolve to the aforesaid website with the obvious potential for improper use, namely misleading internet users and causing confusion with the G7 trademark.

It has therefore filed the Complaint to have the disputed domain name transferred to the Complainant.

PARTIES CONTENTIONS

A. COMPLAINANT

The Complainant made the following contentions.

1. The Complainant is Europe's leading cab operator that was founded in 1905.
2. It owns a large portfolio of registered trademarks including the French (INPI) trademark for G7, no. 4259547, registered on July 15, 2016 together with other European Union (EUIPO) trademarks for G7 and TAXIS G7 (collectively "the G7 trademark").
3. The Complainant also owns many domain names that reflect the G7 trademark, such as <taxis-g7.com>, registered on January 17, 1997, which it uses in its business.
4. The Respondent registered the domain name <taxig7-iledefrance.com> ("the disputed domain name") on February 2, 2024 and caused it to resolve to a website under construction offering services competitive with those of the Complainant.
5. The disputed domain name is confusingly similar to the G7 trademark, as it incorporates the entirety of the G7 trademark and adds the geographic indicator "iledefrance" which invokes the area where the Complainant operates and which cannot negate a finding of confusing similarity between the disputed domain name and the trademark.
6. The Respondent has also added the gTLD ".com" which likewise cannot negate a finding of confusing similarity between the disputed domain name and the trademark.
7. The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant contends that:

   the Respondent is not commonly known by the disputed domain name;

- the Respondent is not commonly known by the disputed domain name;
- the Respondent is not related to the Complainant in any way and does not carry out any activity nor have any business with the Complainant.;
- the Complainant has not authorized the Respondent to register the disputed domain name or to make any use of the G7 trademark;
- the Respondent's domain name points to a website that uses the disputed domain name that includes the G7 trademark and purports to be the website of a competitor of the Complainant;
- the Respondent's use of the domain name is not a bona fide offering of goods or services;
- the Respondent's use of the domain name is not a legitimate non-commercial or fair use of the domain name;
- the Respondent's use of the domain name indicates that it is impersonating the Complainant, using its trademark in a disputed domain name and seeking to defraud or mislead internet users.

The disputed domain name was registered and is being used in bad faith because the Complainant claims that:

- the domain name is confusingly similar to the G7 trademark and incorporates the entirety of that trademark;
- the domain name points to a website purporting to be that of a competitor of the Complainant ;
- internet search results for the term "taxig7 ile de france" relate to the Complainant and its services;
- the Respondent registered and used the disputed domain name with actual knowledge of the Complainant's trademark;
- the Complainant has registered and used the disputed domain name to attract internet users and disrupt the Complainant's business by offering services in competition with those of the Complainant, and to cause confusion with the G7 trademark within the meaning of Policy¶¶4(b) (iii) and (iv) respectively.
- the Respondent has used the disputed domain name to impersonate the Complainant.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

This is a mandatory administrative proceeding pursuant to Paragraph 4 of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP") of the Internet Corporation for Assigned Names and Numbers ("ICANN"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the CAC Supplemental Rules.

A. Administrative compliance

By notification dated February 7, 2024 and in accordance with paragraph 4 (b) of the Rules, the CAC notified the Complainant that the Complaint was administratively deficient in that the Complaint did not sufficiently identify the Respondent. The notification invited the Complainant to have regard to the Registrar's verification available in the online case file in the form of a non-standard communication regarding the appropriate identification of the domain name holder. Also on February 7, 2024, the Complainant filed an Amended Complaint and the CAC determined that the Complaint should be admitted to proceed further in the Administrative Proceeding.

The Panel has reviewed all of the above matters and makes a finding that within the meaning of paragraph 4(b) of the Rules, the administrative deficiencies have been corrected and that this matter has proceeded properly to the Panel in accordance with the Policy and the Rules.

B. Substantive matters

Paragraph 15 of the Rules provides that the Panel is to decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.
In that regard, the Panel also notes that the onus is on the complainant to make out its case and past UDRP panels have consistently said that a complainant must show that all three elements of the Policy have been made out before any order can be made to transfer a domain name.

The Panel therefore turns to discuss the various issues that arise for decision on the facts as they are known.
For the complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy, that:
(i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
(ii) the respondent has no rights or legitimate interests in respect of the domain name; and
(iii) the domain name has been registered and is being used in bad faith.

The Panel will therefore deal with each of these requirements in turn.

Identical or Confusingly Similar

The Complainant has established by evidence, namely Annex 1 to the Complaint, that the Complainant is the registered owner of a large portfolio of registered trademarks including the French (INPI) trademark for G7, no. 4259547, registered on July 15, 2016 together with other European Union (EUIPO) trademarks for G7 and TAXIS G7 (collectively "the G7 trademark").

It will be seen therefore that the trademark was registered well before the disputed domain name was registered, which was on February 2, 2024, as is demonstrated by Annex 4 to the Complaint. The Complainant has also verified that the Respondent is the registrant of the disputed domain name.

The Panel therefore finds that the Complainant “has” a trademark which the Policy requires it to prove and which it has done.

The Panel next finds that the disputed domain name is confusingly similar to the G7 trademark for the following reasons.

First, the domain name includes the entirety of the G7 mark. Accordingly, it is clear that the domain name has been inspired by and is an attempt to copy the trademark. It is also clear and has been held many times in prior UDRP decisions that when internet users see an entire trademark used in a domain name in this way, they naturally conclude that the domain name is an official domain name of the trademark owner or at least that it is being used with the permission of the trademark owner.

Secondly, the disputed domain name also includes, as a prefix before "g7", the word "taxi" which invokes the taxi services which the Complainant provides under its trademark, a hyphen and the geographic indicator “iledefrance" which the evidence shows merely invokes the region in which the Complainant conducts its operations under the trademark. None of these additions negates a finding of confusing similarity between the disputed domain name and the trademark because the domain name clearly means the provision of taxi services on the Ile De France and under the G7 trademark.

Thirdly, the Respondent has also added the gTLD “.com” which likewise cannot negate a finding of confusing similarity between the disputed domain name and the trademark.

Fourthly, the fact that the disputed domain name has been created by making those additions to the trademark suggests instantly that the Respondent is going about some activity designed to do damage to the Complainant by some means involving the use of its trademark in the disputed domain name. In fact, it can be assumed that internet users who came across the disputed domain name, whether they were searching for the Complainant or simply in search of taxi services, would assume that the domain name may well be the official domain name of the Complainant and that it was being used for a legitimate purpose involving the provision of taxis services by or with the permission of the Complainant, none of which is true.

Internet users would also conclude that the domain name would lead to an official website of the Complainant, which is also not true.

Finally, the “dot.com” suffix which the Respondent has added, is disregarded for the purposes of assessing confusing similarity, as it could not negate the clear impression that the disputed domain name is confusingly similar to the trademark, which it clearly is.

Taken as a whole, the internet user would look at the disputed domain name and conclude that it is similar to the trademark and also that it is confusingly similar, because it gives rise to a question mark as to whether it really is an official domain name of the Complainant or not.

The Panel therefore finds that the disputed domain name is confusingly similar to the G7 trademark and that this conclusion is supported by the prior UDRP decisions cited by the Complainant.

The Complainant has thus made out the first of the three elements that it must establish.

Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

But by virtue of paragraph 4(c) of the Policy, it is open to a respondent to establish its rights or legitimate interests in a domain name, among other circumstances, by showing any of the following elements:
(i) before any notice to you [respondent] of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
(ii) you [respondent] (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
(iii) you [respondent] are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Thus, if a respondent proves any of these elements or indeed anything else that shows that it has a right or legitimate interest in the disputed domain name, the complainant will have failed to discharge its onus and the complaint will fail.

It is also well-established that a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests and that when such a prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent cannot do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

The Panel, after considering all of the evidence in the Complaint, finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name.

That prima facie case is made out from the following considerations.

- the Complainant has clearly established its rights in the G7 trademark and that the Respondent has registered a domain name that incorporates that trademark and adds the prefix “taxi” and the expression “iledefrance”, which describes the business of the Complainant and the region where it conducts that business. Thus it is clear that the Respondent has set about copying the Complainant and its trademark and is seeking to give the impression that it is in competition with the Complainant , even to the

extent that it is using the Complainant's trademark. Such conduct cannot give rise to a right or legitimate interest in the disputed domain name;

- the Panel finds on the evidence that the Respondent is not commonly known by the disputed domain name; this is seen from the registrar's verification which states that the Respondent's name is "Taxi G7" and even in the unlikely event that this is the real name of the registrant, it does not show that it is commonly known as "taxig7-iledefrance.com" which is the disputed domain name; there is certainly no evidence to that effect ;
- the evidence is that the Respondent is not related to the Complainant in any way, and does not carry out any activity nor have any business with the Complainant but is passing itself off as th Complainant.;
- the evidence is that the Complainant has not authorized the Respondent to register the disputed domain name or to make any use of the G7 trademark;
- the evidence is that the Respondent's disputed domain name points to a website purporting to be that of a competitor of the Complainant; that is so because the annex submitted by the Complainant shows that the website is under construction and that it is proposed to be a website dealing with taxi services to be conducted under the Complainant's trademark and on the Ile De France. This in turn shows that the intention of the Respondent is to purport to provide the same services as the Complainant, in the same region as the Complainant and under its own trademark. There could not therefore be a clearer indication that the disputed domain name is being used for a wholly illegitimate purpose;

- the Respondent's use of the disputed domain name is not a bona fide offering of goods or services; there is no way in which it could be said that taking a person's trademark without permission, copying it into a domain name and proposing to use the disputed domain name in competition with the trademark owner was an activity that could remotely be described as bona fide;
- nor could such conduct be described as legitimate, non-commercial or fair when it is clearly illegitimate; non- commercial, when the conduct is clearly commercial; or fair, when it is inherently unfair. The Respondent's use of the disputed domain name is therefore not a legitimate non-commercial of fair use of the domain name;
- the Respondent's use of the disputed domain name indicates that it is impersonating the Complainant, using its trademark in a disputed domain name and seeking to defraud or mislead internet users. Such conduct is clearly illegitimate;
- nor is it conceivable on the evidence that the Respondent could bring itself within any of the criteria for finding a right or legitimate interest in the disputed domain name.

These facts give rise to the prima facie case made out by the Complainant.

The Respondent has not filed a Response or made any other answer to the claims of the Complainant and is in default. Accordingly, the prima facie case has not been rebutted and the Complainant has made out the second of the three elements that it must establish.

Registered and Used in Bad Faith

The Complainant must prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

Paragraph 4(b) of the Policy sets out four circumstances, any one of which is evidence of the registration and use of a domain name in bad faith, although other circumstances may also be relied on, as the four circumstances are not exclusive. The four specified circumstances are:
(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the site or location.

There is no need to repeat all of the details set out already, but the conduct of the Respondent in registering the disputed domain name clearly amounts to bad faith registration and its conduct since the registration shows bad faith use.

First, the disputed domain name was clearly registered in bad faith because the Respondent copied the G7 trademark and made it clear in the terms of the domain name that its intention was to copy the Complainant, pass itself off as the Complainant and mislead internet users, all of which it did or intended to do when it got its website up and running.

Secondly, the disputed domain name has been used in bad faith. That is so because the Respondent has commenced construction of the website to which the disputed domain name resolves for the clear purpose of competing with the Complainant by using its trademark, passing itself off as the Complainant and misleading internet users, all of which amount to bad faith. What the Respondent has done is to lay the foundations for continuing to pretend that it is the Complainant and for putting the Complainant at risk of the disputed domain name being used to its detriment and to tarnish its trademark.

Thus, the Respondent must have had actual knowledge of the Complainant and its trademark which has long been a ground for finding bad faith registration and, by retaining the disputed domain name, its use. The Respondent could not have started and continued with its fraud on internet users if it did not have actual knowledge of the Complainant's name, business, trademark and activities. The Panel therefore finds that the Respondent took the trademark, made additions to it, registered the domain name and

commenced to use it, knowing full well that the Complainant was its target.

Specifically, the Panel finds that all of the grounds relied on by the Complainant for showing bad faith registration and use of the disputed domain name have been made out on the evidence, showing that the domain name was registered and has been used by the Respondent in bad faith. Those grounds are that:

- the disputed domain name is confusingly similar to the G7 trademark and incorporates the entirety of that trademark;
- the disputed domain name points to a website purporting to be that of a competitor of the Complainant ;
- internet searches for the terms “taxi g7 ile de france’ relate to the Complainant and its services;
- the Respondent registered and used the disputed domain name with actual knowledge of the Complainant’s trademark;
- the Complainant has registered and used the disputed domain name to attract internet users and disrupt the Complainant’s business by offering services in competition with those of the Complainant within the meaning of Policy paragraphs 4(b) (iii) and (iv).
- the Respondent has used the disputed domain name to impersonate the Complainant.

Finally, in addition to the specified grounds of bad faith and having regard to the totality of the evidence, the Panel finds that, in view of the Respondent’s registration of the disputed domain name, retaining it, and using it, the Respondent registered and used it in bad faith within the generally accepted meaning of that expression.

Accordingly, the Complainant has shown the right of the third of the three elements that it must establish.

The Complainant has therefore made out its case and is entitled to the relief it seeks.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **taxig7-iledefrance.com**: Transferred

PANELLISTS

Name	**Neil Brown**

DATE OF PANEL DECISION 2024-03-01

Publish the Decision